

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JULIAN AHLER, ET AL.,)
Plaintiffs,)
v.) No.: 3:11-CV-606-TAV-HBG
TENNESSEE VALLEY AUTHORITY,)
Defendant.)

ORDER OF SEVERANCE OF CLAIMS OF
PLAINTIFFS JOE AND TONI HABA

This action is before the Court on the joint motion of Plaintiffs Joe and Toni Haba and Defendant Tennessee Valley Authority (TVA), pursuant to Federal Rules of Civil Procedure 16 and 21, to modify the stay of this action, sever the claims of Plaintiffs Joe and Toni Haba from this action, and create a new action to allow the further litigation of the claims of Plaintiffs Joe and Toni Haba under a new civil action number [Doc. 115].

Since November 20, 2012, the parties in the sixty-three cases comprising the TVA Ash Spill Litigation have participated in Court-ordered mediation, and litigation in those actions has been stayed during that mediation. Plaintiffs Joe and Toni Haba and TVA have reached a procedural impasse in the mediation, and Plaintiffs Joe and Toni Haba seek a modification of the stay and severance of their claims to allow them to proceed with further litigation of their claims against TVA. Counsel for Plaintiffs and TVA agree that severance of the claims of Plaintiffs Joe and Toni Haba and further litigation of those claims under a new civil action number would allow the vast majority of Plaintiffs who

have not reached an impasse with TVA to continue their mediation and would facilitate a potentially successful conclusion of that mediation.

Accordingly, for good cause shown, it is hereby **ORDERED**:

(a) The claims of Plaintiffs Joe and Toni Haba in Case No. 3:11-CV-606 are hereby severed; the Clerk shall assign a new civil action number to the severed claims of Plaintiffs Joe and Toni Haba without any additional filing fee and without current counsel of record having to enter an appearance in the new case;

(b) The Clerk shall assign the new civil action created by the severance to the same District Judge and Magistrate Judge assigned to Case No. 3:11-CV-606;

(c) This Order of Severance and all prior filings in Case No. 3:11-CV-606 shall be deemed in all respects as if they were filed in the new civil action on the same dates shown on the docket sheet for Case No. 3:11-CV-606;

(d) The Clerk shall enter the following language on the docket sheet of the new civil action: "For prior entries refer to the Electronic Case Filing System for Case No. 3:11-CV-606"; and

(e) The stay in Case No. 3:11-CV-606 is hereby modified to allow Plaintiffs Joe and Toni Haba and Defendant TVA to proceed with litigation of the severed claims of Plaintiffs Joe and Toni Haba in the new civil action.

ENTER:

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE